

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN SENATE MARCH 8, 2005

SENATE BILL

No. 35

Introduced by Senator Florez
(Principal coauthor: Assembly Member Chan)

December 14, 2004

An act to amend ~~Sections 130140 and~~ *Section 130150* of, and to add Section 130151 to, the Health and Safety Code, relating to child development.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Florez. California Children and Families Program.

(1) The California Children and Families Act of 1998, an initiative measure, requires that the California Children and Families Program, established by the act, be funded by surtaxes imposed on the sale and distribution of cigarettes and tobacco products and deposited into the California Children and Families Trust Fund, and that the fund be used for the implementation of comprehensive early childhood development and smoking prevention programs. Existing law establishes a state commission, First 5 California, with powers and duties relating to the administration of the act on a state level, and authorizes a county's board of supervisors to establish a county children and families commission to administer the act on a county level.

Existing law requires county commissions, for each fiscal year, to receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the number of births recorded in all of the counties

participating in the California Children and Families Program (for the same period), if certain requirements are met.

~~This bill would add to these requirements (1) that the county commission, in a public hearing, adopt policies regarding conflict of interest of commission members and commission contracting and procurement policies, (2) that the county adopt a limit on the percentage of the county commission's operating budget that may be spent on administrative functions, and (3) that the county commission adopt, in a public hearing, policies and processes establishing the salaries and benefits of its employees.~~

Existing law requires each county commission, *on or before October 15 of each year*, to conduct an audit of, and issue a written report on the implementation and performance of, its functions during the ~~proceeding~~ *preceding* fiscal year, and requires the state commission to prepare a written report that consolidates, summarizes, analyzes, and comments on the annual audits and reports submitted by all of the county commissions.

This bill would require each county commission, on or before November 1 of each year, to submit ~~in its audit and report a list, by category, of all program areas funded, to the state commission. It would require the report to be~~ in a format prescribed by the state commission, if the state commission ~~prescribes~~ *approves* that format ~~in a public meeting~~ prior to the fiscal year in which it is to be utilized. The bill would require that the state commission's report include a listing, by category, of the aggregate expenditures on program areas funded by the state and county commissions. It would also authorize the state commission to withhold funds that would otherwise be allocated to the county commission from the California Children and Families Trust Fund in the event a county commission does not submit ~~data~~ *required information* for the written report.

This bill, in addition, would require the Controller to issue guidelines for expanded annual audits of each county commission and associated quality control functions, subject to funding by the state commission, and to present the final audit guidelines and implementation plan to the state commission *in a public meeting* on or before April 30, 2006.

This bill would only become operative if AB 109 of the 2005-06 Regular Session is enacted and becomes operative.

(2) The California Constitution provides that the Legislature may amend an initiative statute by another statute that becomes effective

only when approved by the voters unless the initiative statute permits amendment without voter approval. The act provides that it may be amended only by a vote of $\frac{2}{3}$ of the membership of both houses of the Legislature and that all amendments pursuant to this provision shall be to further the act and must be consistent with its purposes.

This bill, in conformance with those requirements, would declare that its provisions further the act and are consistent with its purposes.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 130140 of the Health and Safety Code~~
2 ~~is amended to read:~~
3 ~~130140. Any county or counties developing, adopting,~~
4 ~~promoting, and implementing local early childhood development~~
5 ~~programs consistent with the goals and objectives of this act shall~~
6 ~~receive moneys pursuant to paragraph (2) of subdivision (d) of~~
7 ~~Section 130105 in accordance with the following provisions:~~
8 ~~(a) For the period between January 1, 1999, and June 30,~~
9 ~~2000, county commissions shall receive the portion of the total~~
10 ~~moneys available to all county commissions equal to the~~
11 ~~percentage of the number of births recorded in the relevant~~
12 ~~county (for the most recent reporting period) in proportion to the~~
13 ~~entire number of births recorded in California (for the same~~
14 ~~period), provided that each of the following requirements has~~
15 ~~first been satisfied:~~
16 ~~(1) The county's board of supervisors has adopted an~~
17 ~~ordinance containing the following minimum provisions:~~
18 ~~(A) The establishment of a county children and families~~
19 ~~commission. The county commission shall be appointed by the~~
20 ~~board of supervisors and shall consist of at least five but not~~
21 ~~more than nine members.~~
22 ~~(i) Two members of the county commission shall be from~~
23 ~~among the county health officer and persons responsible for~~
24 ~~management of the following county functions: children's~~
25 ~~services, public health services, behavioral health services, social~~
26 ~~services, and tobacco and other substance abuse prevention and~~
27 ~~treatment services.~~

1 (ii) ~~One member of the county commission shall be a member~~
2 ~~of the board of supervisors.~~

3 (iii) ~~The remaining members of the county commission shall~~
4 ~~be from among the persons described in clause (i) and persons~~
5 ~~from the following categories: recipients of project services~~
6 ~~included in the county strategic plan; educators specializing in~~
7 ~~early childhood development; representatives of a local child~~
8 ~~care resource or referral agency, or a local child care~~
9 ~~coordinating group; representatives of a local organization for~~
10 ~~prevention or early intervention for families at risk;~~
11 ~~representatives of community-based organizations that have the~~
12 ~~goal of promoting nurturing and early childhood development;~~
13 ~~representatives of local school districts; and representatives of~~
14 ~~local medical, pediatric, or obstetric associations or societies.~~

15 (B) ~~The manner of appointment, selection, or removal of~~
16 ~~members of the county commission, the duration and number of~~
17 ~~terms county commission members shall serve, and any other~~
18 ~~matters that the board of supervisors deems necessary or~~
19 ~~convenient for the conduct of the county commission's activities;~~
20 ~~provided that members of the county commission shall not be~~
21 ~~compensated for their services, except they shall be paid~~
22 ~~reasonable per diem and reimbursement of reasonable expenses~~
23 ~~for attending meetings and discharging other official~~
24 ~~responsibilities as authorized by the county commission.~~

25 (C) ~~The requirement that the county commission adopt an~~
26 ~~adequate and complete county strategic plan for the support and~~
27 ~~improvement of early childhood development within the county.~~

28 (i) ~~The county strategic plan shall be consistent with, and in~~
29 ~~furtherance of the purposes of, this act and any guidelines~~
30 ~~adopted by the state commission pursuant to subdivision (b) of~~
31 ~~Section 130125 that are in effect at the time the plan is adopted.~~

32 (ii) ~~The county strategic plan shall, at a minimum, include the~~
33 ~~following: a description of the goals and objectives proposed to~~
34 ~~be attained; a description of the programs, services, and projects~~
35 ~~proposed to be provided, sponsored, or facilitated; and a~~
36 ~~description of how measurable outcomes of such programs,~~
37 ~~services, and projects will be determined by the county~~
38 ~~commission using appropriate reliable indicators. No county~~
39 ~~strategic plan shall be deemed adequate or complete until and~~
40 ~~unless the plan describes how programs, services, and projects~~

1 relating to early childhood development within the county will be
2 integrated into a consumer-oriented and easily accessible system.

3 (iii) The county commission shall, on at least an annual basis,
4 be required to periodically review its county strategic plan and to
5 revise the plan as may be necessary or appropriate.

6 ~~(D) The requirement that the county commission conduct at
7 least one public hearing on its proposed county strategic plan
8 before the plan is adopted.~~

9 ~~(E) The requirement that the county commission conduct at
10 least one public hearing on its periodic review of the county
11 strategic plan before any revisions to the plan are adopted.~~

12 ~~(F) The requirement that the county commission submit its
13 adopted county strategic plan, and any subsequent revisions
14 thereto, to the state commission.~~

15 ~~(G) The requirement that the county commission prepare and
16 adopt an annual audit and report pursuant to Section 130150. The
17 county commission shall conduct at least one public hearing prior
18 to adopting any annual audit and report.~~

19 ~~(H) The requirement that the county commission conduct at
20 least one public hearing on each annual report by the state
21 commission prepared pursuant to subdivision (b) of Section
22 130150.~~

23 ~~(I) Two or more counties may form a joint county
24 commission, adopt a joint county strategic plan, or implement
25 joint programs, services, or projects.~~

26 ~~(2) The county's board of supervisors has established a county
27 commission and has appointed a majority of its members.~~

28 ~~(3) The county has established a local Children and Families
29 Trust Fund pursuant to subparagraph (A) of paragraph (2) of
30 subdivision (d) of Section 130105.~~

31 ~~(b) Notwithstanding any provision of this act to the contrary,
32 no moneys made available to county commissions under
33 subdivision (a) shall be expended to provide, sponsor, or
34 facilitate any programs, services, or projects for early childhood
35 development until and unless the county commission has first
36 adopted an adequate and complete county strategic plan that
37 contains the provisions required by clause (ii) of subparagraph
38 (C) of paragraph (1) of subdivision (a).~~

39 ~~(c) In the event that any county elects not to participate in the
40 California Children and Families Program, the moneys remaining~~

1 in the California Children and Families Trust Fund shall be
2 reallocated and reappropriated to participating counties in the
3 following fiscal year.

4 (d) For the fiscal year commencing on July 1, 2000, and for
5 each fiscal year thereafter, county commissions shall receive the
6 portion of the total moneys available to all county commissions
7 equal to the percentage of the number of births recorded in the
8 relevant county (for the most recent reporting period) in
9 proportion to the number of births recorded in all of the counties
10 participating in the California Children and Families Program
11 (for the same period), provided that each of the following
12 requirements has first been satisfied:

13 (1) The county commission has, after the required public
14 hearings, adopted an adequate and complete county strategic plan
15 conforming to the requirements of subparagraph (C) of paragraph
16 (1) of subdivision (a), and has submitted the plan to the state
17 commission.

18 (2) The county commission has conducted the required public
19 hearings, and has prepared and submitted all audits and reports
20 required pursuant to Section 130150.

21 (3) The county commission has conducted the required public
22 hearings on the state commission annual reports prepared
23 pursuant to subdivision (b) of Section 130150.

24 (4) The county commission, in a public hearing, has adopted
25 policies that are consistent with state law and establish the
26 commission's policies regarding the following:

27 (A) Conflict of interest of commission members.

28 (B) Commission contracting and procurement policies.

29 (5) The county commission, in a public hearing, has adopted a
30 limit on the percentage of the county commission's operating
31 budget that may be spent on administrative functions. The state
32 commission's guidelines shall provide a uniform definition of
33 administrative functions.

34 (6) The county commission, in a public hearing, has adopted
35 policies and processes establishing the salaries and benefits of its
36 employees.

37 (e) In the event that any county elects not to continue
38 participation in the California Children and Families Program,
39 any unencumbered and unexpended moneys remaining in the
40 local Children and Families Trust Fund shall be returned to the

~~California Children and Families Trust Fund for reallocation and
reappropriation to participating counties in the following fiscal
year.~~

~~(f) For purposes of this section, "relevant county" means the
county in which the mother of the child whose birth is being
recorded resides.~~

~~SEC. 2.—~~

SECTION 1. Section 130150 of the Health and Safety Code is
amended to read:

130150. (a) On or before October 15 of each year, each
county commission shall conduct an audit of, and issue a written
report on the implementation and performance of, its functions
during the preceding fiscal year, including, at a minimum, the
manner in which funds were expended, the progress toward, and
the achievement of, program goals and objectives, and ~~the~~
~~measurement of specific outcomes through appropriate reliable~~
~~indicators.~~ *information on programs funded and populations*
served for all funded programs.

On or before November 1 of each year, each county
commission shall submit its audit and report to the state
commission for inclusion in the state commission's consolidated
report required in subdivision (b). ~~In its report, each county~~
~~commission shall list, by category, all program areas funded~~
Each commission shall submit its report in a format prescribed
by the state commission if the state commission issues that
format prior to the fiscal year during which it is to be used by the
county commissions. commission approves that format in a
public meeting prior to the fiscal year during which it is to be
used by the county commissions. The state commission shall
develop the format in consultation with the county commissions.

(b) The state commission shall, on or before January 31 of
each year, do both of the following:

(1) Conduct an audit and prepare a written report on the
implementation and performance of the state commission
functions during the preceding fiscal year, including, at a
minimum, the manner in which funds were expended and the
progress toward, and the achievement of, program goals and
objectives.

(2) Prepare a written report that consolidates, summarizes,
analyzes, and comments on the annual audits and reports

submitted by all of the county commissions and the Controller for the preceding fiscal year. The written report shall include a listing, by category, of the aggregate expenditures on program areas funded by the state and county commissions pursuant to the purposes of this act, according to a format prescribed by the state commission. This report by the state commission shall be transmitted to the Governor, the Legislature, and each county commission.

(3) In the event a county commission does not submit data for the written report in the manner *the information* prescribed in subdivision (a), the state commission may withhold funds that would otherwise have been allocated to the county commission from the California Children and Families Trust Fund pursuant to Section 130140 until the county commission submits the data as required by subdivision (a).

(c) The state commission shall make copies of each of its annual audits and reports available to members of the general public on request and at no cost. The state commission shall furnish each county commission with copies of those documents in a number sufficient for local distribution by the county commission to members of the general public on request and at no cost.

(d) Each county commission shall make copies of its annual audits and reports available to members of the general public on request and at no cost.

~~SEC. 3.—~~

SEC. 2. Section 130151 is added to the Health and Safety Code, to read:

130151. (a) In addition to the requirements in Section 130150, the Controller shall issue guidelines for expanded annual audits of each county commission required pursuant to subdivision (b) of Section 130150 and associated quality control functions, subject to funding by the state commission.

(b) The scope of the audits shall address, ~~at a minimum,~~ a review of *county commission policies and practices with respect to* the following elements:

(1) Contracting and procurement policies, to determine whether they are in place pursuant to paragraph (4) of subdivision (d) of Section 130140, whether state and county commissions are operating in accordance with these policies, and

1 whether these policies contain provisions to ensure that the grants
2 and contracts are consistent with the state or county
3 commission's strategic plan.

4 (2) Administrative costs, to ensure that the county
5 commission's definitions comply with the state commission's
6 guidelines and that the county commission has a process in place
7 to monitor these costs.

8 (3) ~~Compliance Policies and procedures, established pursuant~~
9 ~~to paragraph (4) of subdivision (d) of Section 130140, designed~~
10 ~~to assure compliance by the state commission and county~~
11 ~~commissions with all applicable state and local~~
12 ~~conflict-of-interest statutes and regulations.~~

13 ~~(4) County commission ordinances, established pursuant to~~
14 ~~Section 130140, to determine whether county commissions are~~
15 ~~adhering to them.~~

16 (4) *Policies and practices designed to assure that county*
17 *commissions are adhering to county commission ordinances*
18 *established pursuant to paragraph (1) of subdivision (a) of*
19 *Section 130140.*

20 (5) Long-range financial plans, to determine whether state and
21 county commissions have these plans and that the plans have
22 been formally adopted by the commission in a public hearing.

23 (6) Financial condition of the commission.

24 (7) Amount commissions spend on ~~evaluation and program~~
25 ~~monitoring~~ *program evaluation* and the documented results of
26 these expenditures.

27 (8) Salaries and benefit policies, to determine whether the
28 county commission's employee salaries and benefits comply with
29 the policies that the county commission adopted pursuant to
30 paragraph (6) of subdivision (d) of Section 130140.

31 (c) The auditor for the state commission or the county
32 commission shall submit each audit report, upon completion,
33 simultaneously to both the Controller and to the state commission
34 or applicable county commission.

35 (d) The state commission and each respective county
36 commission shall schedule a public hearing within two months of
37 receipt of the audit to discuss findings within the report and any
38 response to the findings. Within two weeks of the public hearing,
39 the state or county commission shall submit to the Controller a
40 response to the audit findings.

(e) Within six months of the state or county commission's response pursuant to subdivision (d), the Controller shall determine whether a county commission has successfully corrected its practices in response to the findings contained in the audit report. The Controller may, after that determination, recommend to the state commission to withhold the allocation of money that the county commission would otherwise receive from the California Children and Families Trust Fund until the Controller determines that the county commission has a viable plan and the ability to correct the practices identified in the audit.

(f) The Controller shall prepare a summary report of the final audits and submit the report to the state commission by November 1 of each year for inclusion in the annual report required pursuant to subdivision (b) of Section 130150.

(g) On or before April 30, 2006, the Controller shall present to the state commission *in a public meeting* the final audit guidelines and implementation plan. *When developing the guidelines, the Controller shall consider the reasonableness of the projected costs and administrative burden of the required audit functions.*

SEC. 3. *This act shall only become operative if Assembly Bill 109 of the 2005-06 Regular Session is enacted and becomes operative.*

SEC. 4. The Legislature finds and declares that this act furthers the California Children and Families Act of 1998 enacted by Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.